

§ 170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of an adherence to the ethical standards, and to monitor and enforce compliance with the customer and option customer protection program and rules.

(Secs. 2(a)(1), 4c(a)-(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)-(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b))

[47 FR 57020, Dec. 22, 1982]

§ 170.6 Disciplinary proceedings (sections 17(b)(8) and (b)(9) of the Act).

A futures association must provide a fair and orderly procedure with respect to disciplinary actions brought against association members or persons associated with members. These rules governing such disciplinary actions shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act. In addition, an association, in disciplining its members should demonstrate that it will:

- (a) Take vigorous action against those who engage in activities in violation of association rules;
- (b) Conduct proceedings in a manner consistent with the fundamental elements of due process; and
- (c) Impose discipline which is fair and has a reasonable basis in fact.

(Approved by the Office of Management and Budget under control number 3038-0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.7 Membership denial (section 17(b)(9) of the Act).

A futures association must provide a fair and orderly procedure for proc-

essing membership applications and for affording any person to be denied membership an opportunity to submit evidence in response to the grounds for denial stated by the association. The procedures governing denials of membership in the association shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act.

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[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.8 Settlement of customer disputes (section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capacity to promulgate rules and to conduct proceedings that provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with section 17(b)(10) of the Act and be consistent with the guidelines and acceptable practices for dispute resolution found within Appendix A and Appendix B to Part 38 of this chapter.

[66 FR 42288, Aug. 10, 2001]

§ 170.9 General standard.

An applicant seeking registration as a futures association by the Commission must demonstrate the association's ability to comply with standards and requirements set forth in this part. The applicant must also demonstrate its ability to satisfy the provisions of section 17 of the Act as well as other applicable legal considerations, including that the association will promote fair and open competition among its members and will conduct its affairs consistent with the public interest to be protected by the antitrust laws. The Commission shall not register an applicant association unless the Commission finds that the applicant has satisfied the conditions and requirements of section 17 of the Act and of this part and that registration will be in the public interest.